

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RACHEL MARIE WHITTED
(#1212277), aka Ralph Whitted,

Plaintiff

v.

STATE OF NEVADA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants

Case No. 3:21-cv-00114-MMD-WGC

ORDER

I. DISCUSSION

On March 9, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a state civil rights complaint using a case caption for the Justice Court, Las Vegas Township, and an application to proceed *in forma pauperis* using a Justice Court, Las Vegas Township, Clark County, Nevada form. (ECF Nos. 1-1, 1). Following review, it appears that perhaps Plaintiff intended to file this action in a different court. Therefore, Plaintiff shall advise this Court no later than **May 11, 2021** regarding whether she wishes to dismiss the action in this Court to pursue the case in another court. If Plaintiff intends to pursue this action in another court, she will need to file the appropriate documents in that court.

In the event, however, Plaintiff did intend to submit ECF Nos. 1-1 and 1 to this Court, Plaintiff has not submitted an application to proceed *in forma pauperis* on this Court's approved form together with the required financial attachments. Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is incomplete.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents. Plaintiff will file a fully complete application to proceed *in forma pauperis* on or before **May 11, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three required documents on or before **May 11, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **May 11, 2021** to proceed with this case.

The Court will retain Plaintiff's complaint (ECF No. 1-1), but the Court will not file the complaint unless and until Plaintiff timely files a fully complete application to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that Plaintiff shall advise this Court no later than **May 11, 2021** regarding whether she will proceed with dismissal of this action in this Court to pursue the case in another court.

1 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
2 (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed
3 *in forma pauperis* with all three documents.

4 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
5 approved form application to proceed *in forma pauperis* by an inmate, as well as the
6 document entitled information and instructions for filing an *in forma pauperis* application.

7 IT IS FURTHER ORDERED that on or before **May 11, 2021**, Plaintiff will either pay
8 the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
9 administrative fee) or file with the Court:

10 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
11 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
12 signatures on page 3),

13 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
14 official (i.e. page 4 of this Court's approved form), and

15 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
16 **previous six-month period.**

17 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
18 application to proceed *in forma pauperis* with all three documents or pay the full \$402
19 filing fee for a civil action on or before **May 11, 2021**, this case will be subject to dismissal
20 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
21 when Plaintiff has all three documents needed to file a complete application to proceed
22 *in forma pauperis* or pays the the full \$402 filing fee.

23 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
24 (ECF No.1-1) but will not file it at this time.

25 DATED: March 12, 2021

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27 UNITED STATES MAGISTRATE JUDGE
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